

Message Text

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ORIGIN L-03

INFO OCT-01 EUR-12 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-04 H-02 INR-07 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 ACDA-05 OMB-01 /059 R

DRAFTED BY L/EUR:KSGUDGEON/EUR/SE:RRDELABARRE:VSS

APPROVED BY EUR:AAHARTMAN

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OSD/ISA:COL MAJORS

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O R 032003Z MAR 76

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INFO USMISSION NATO

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C O N F I D E N T I A L STATE 051936

E.O. 11652: GDS

TAGS: PFOR, MARR, MASS, TU

SUBJECT: TURKISH BASE NEGOTIATIONS - ARTICLES XX AND XXII -

- - - TERMINATION PROVISIONS

REF: (A) ANKARA 1463, (B) STATE 17803, PARA 3,

-- (C) STATE 30058, PARA 2

1. THERE FOLLOWS A REVISED DRAFT FOR ARTICLE XX PARA 3
WHICH ATTEMPTS TO MEET TURKISH CRITICISM OF EARLIER US
TEXT REPORTED REF A AND IS CONSISTENT WITH US DURATION
PREFERENCES.

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2. TEXT ARTICLE XX (3):

QUOTE. AT LEAST ONE YEAR PRIOR TO THE COMPLETION OF THE TERM OF THE DEFENSE SUPPORT PROGRAM ENVISAGED AT PARAGRAPH TWO OF THIS ARTICLE, OR OF OTHER PROGRAMS WHICH ARE SUBSEQUENTLY AGREED UPON PURSUANT TO THIS PARAGRAPH, THE PARTIES SHALL CONSULT TO DEVELOP DEFENSE SUPPORT PROGRAMS AS REQUIRED FOR SUBSEQUENT PERIODS IN ACCORDANCE WITH THEIR RESPECTIVE LEGAL PROCEDURES. IN THE EVENT SUCH CONSULTATIONS FAIL TO PRODUCE AGREEMENT ON ANY SUCH SUBSEQUENT PROGRAM, EITHER PARTY, UPON COMPLETION OF THE TERM OF THE THEN-CURRENT PROGRAM, MAY TERMINATE THIS AGREEMENT ON NOTICE IN WRITING OF NOT LESS THAN THIRTY DAYS. IF THE

PARTIES SHOULD DEVELOP A SUBSEQUENT PROGRAM OF DEFENSE SUPPORT, BUT SUCH PROGRAM DOES NOT ENTER INTO FORCE WITHIN SIX MONTHS OF THE COMPLETION OF THE TERM OF THE THEN-CURRENT PROGRAM OR WITHIN SUCH OTHER PERIOD AS MAY BE AGREED, THEN EITHER PARTY, UPON THE EXPIRATION OF SUCH SIX MONTH OR OTHER PERIOD, MAY TERMINATE THIS AGREEMENT ON NOTICE IN WRITING OF NOT LESS THAN THIRTY DAYS. IN THE EVENT OF TERMINATION PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH, THE PROVISIONS OF ARTICLE XXII(5) SHALL APPLY. UNQUOTE.

3. NEW FORMULATION PROVIDES FOR TERMINATION IN EVENT THAT SUBSEQUENT AID PROGRAMS CANNOT BE AGREED UPON, OR IF AGREED, ARE FRUSTRATED BY CONGRESSIONAL ACTION. IT ALSO PROVIDES FOR SIX MONTHS' LEAD TIME FOR NEW PROGRAMS TO ENTER INTO FORCE, AND IS CONSISTENT WITH THE SEQUENCE ENVISAGED BY ARTICLE XXII PARA 4.

4. WE HAVE ALWAYS ASSUMED THAT BOTH PARTIES HAVE UNDERSTOOD "NOTICE", AS USED IN TERMINATION PROVISIONS, TO MEAN "NOTICE IN WRITING" BUT BELIEVE IT MAY BE BETTER TO SO SPECIFY THROUGHOUT ARTICLE XXII AS WE HAVE DONE IN OUR NEW DRAFT FOR ARTICLE XX (3) ABOVE.

5. AS NOTED REF C, WE HAVE NOT ACCEPTED TURKISH DURATION PREFERENCE SET FORTH IN THEIR VERSION OF ARTICLE XXII PARA 1. WE THEREFORE SUGGEST FOLLOWING FOR ARTICLE XXII PARA 5 LEAD IN: "IN THE EVENT OF TERMINATION OF THIS CONFIDENTIAL

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AGREEMENT PURSUANT TO PARAGRAPHS //TURKISH: 1, // 3 OR 4 OF THIS ARTICLE OR PARAGRAPH 3 OF ARTICLE XX:", AND FOR FIRST SENTENCE OF ARTICLE XXII, PARA 5 B: "THE PROVISION OF DEFENSE SUPPORT UNDER ARTICLE XX SHALL BE TERMINATED ON THE EFFECTIVE DATE OF TERMINATION AS ENVISAGED IN PARAGRAPHS //TURKISH: 1, // 3 AND 4 OF THIS ARTICLE AND PARAGRAPH 3 OF ARTICLE XX." AN ACCEPTABLE ALTERNATIVE FO, FIRST SENTENCE PARA 5B WOULD BE TO USE THE PHRASE,

"THE PROVISIONS OF THIS AGREEMENT," INSTEAD OF CITING SPECIFIC PARAGRAPHS, WHICH WOULD ELIMINATE NEED TO BRACKET REFERENCE TO TURKISH ARTICLE XXII PARA 1. ALTERNATIVE FOR LEAD IN TO PARA 5 WOULD THEN READ: "IN THE EVENT OF TERMINATION OF THIS AGREEMENT AS HEREIN PROVIDED FOR:"

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY BASES, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 03 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE051936
Document Source: CORE
Document Unique ID: 00
Drafter: KSGUDGEON/EUR/SE:RRDELABARRE:VSS
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760081-0296
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760398/aaaadilo.tel
Line Count: 122
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 ANKARA 1463, 76 STATE 17803
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 21 OCT 2004
Review Event:
Review Exemptions: n/a
Review History: WITHDRAWN <23 JUN 2004 by ifshinsr, REFER TO DOD/ISA>; RELEASED <21 OCT 2004 by powellba>; APPROVED <04 NOV 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TURKISH BASE NEGOTIATIONS - ARTICLES XX AND XXII - - - - TERMINATION PROVISIONS
TAGS: PFOR, MARR, MASS, TU, US
To: ANKARA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006